

**ORDINANCE NO. 12-73**

ORDINANCE REZONING FROM R-1 (ONE FAMILY RESIDENTIAL DISTRICT) TO R-2 (ONE AND TWO FAMILY RESIDENTIAL DISTRICT) AND GRANTING A VARIANCE PERMIT TO ALLOW A DUPLEX ON A SUBSTANDARD-SIZED LOT HAVING A WIDTH OF 50 FEET, WHERE A MINIMUM AVERAGE WIDTH OF 75 FEET IS REQUIRED, HAVING A TOTAL AREA OF 7,100 SQUARE FEET, MORE OR LESS, WHERE AT LEAST 7,500 SQUARE FEET IS REQUIRED, AND TO ALLOW A LOT COVERAGE OF 37%, WHERE A MAXIMUM OF 30% IS ALLOWED, CONTRA TO HIALEAH CODE §§ 98-544, 98-546 AND 98-2056(b)(2). **PROPERTY LOCATED AT 1040 SOUTHEAST 9 AVENUE, HIALEAH, FLORIDA.** REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HERewith; PROVIDING PENALTIES FOR VIOLATION HEREOF; PROVIDING FOR A SEVERABILITY CLAUSE; AND PROVIDING FOR AN EFFECTIVE DATE.

**WHEREAS**, the Planning and Zoning Board at its meeting of September 12, 2012 recommended approval of this ordinance.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND THE CITY COUNCIL OF THE CITY OF HIALEAH, FLORIDA, THAT:

**Section 1:** The below-described property is hereby rezoned from R-1 (One Family Residential District) to R-2 (One and Two Family Residential District) and is hereby granted a variance permit to allow a duplex on a substandard-sized lot having a width of 49.8 feet, where a minimum average width of 75 feet is required, having a total area of 6,750 square feet, more or less, where at least 7,500 square feet is required, to allow a lot coverage of 34%, where a maximum of 30% is allowed, and to allow a corner side setback of 10 feet, where no less than 15 feet are required, contra to Hialeah Code §§ 98-544 and 98-2056(b)(2) which provide in pertinent part: "The minimum building site in the R-2 one- and two-family residential district shall be one lot or parcel of land containing at least 7,500 square feet of area for each one-family or two-family residence.

Such parcels or lots shall have an average width of at least 75 feet and shall have a minimum average depth of 100 feet.” and “In addition, every residential development except R-1 and R-4, and R-3 when developed as R-4 shall comply with the following open space and lot coverage requirements: (2) A maximum of 30 percent of the net residential land area shall be covered with or occupied by the principal residential structure.”, respectively. Property located at 1040 S.E. 9 Avenue, Hialeah, Miami-Dade County, Florida and legally described as follows:

LOT 22, IN BLOCK 2, OF WEST BUENA VISTA,  
ACCORDING TO THE PLAT THEREOF, AS  
RECORDED IN PLAT BOOK 7, AT PAGE 6, OF THE  
PUBLIC RECORDS OF MIAMI-DADE COUNTY,  
FLORIDA.

**Section 2: Repeal of Ordinances in Conflict.**

All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

**Section 3: Penalties.** Every person violating any provision of the Code or any ordinance, rule or regulation adopted or issued in pursuance thereof shall be punished by a civil penalty not to exceed \$500.00 within the discretion of the court or administrative tribunal having jurisdiction. Each act of violation and each day upon which any such violation shall occur shall constitute a separate offense. In addition to the penalty prescribed above, the city may pursue other remedies such as abatement of nuisance, injunctive relief, administrative adjudication and revocation of licenses or permits.

**Section 4: Severability Clause.**

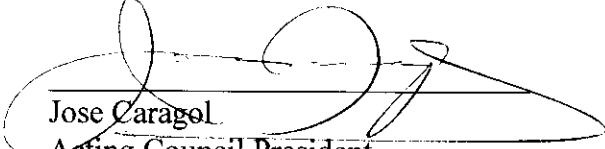
If any phrase, clause, sentence, paragraph or section of this ordinance shall be declared invalid or unconstitutional by the judgment or decree of a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs or sections of this ordinance.

**Section 5: Effective Date.**

This ordinance shall become effective when passed by the City Council and signed by the Mayor or at the next regularly scheduled City Council meeting, if the Mayor's signature is withheld or if the City Council overrides the Mayor's veto.

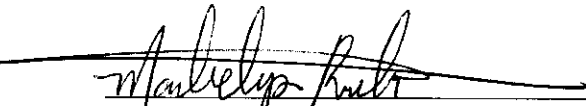
PASSED and ADOPTED this 23 day of October, 2012.

THE FOREGOING ORDINANCE  
OF THE CITY OF HIALEAH WAS  
PUBLISHED IN ACCORDANCE  
WITH THE PROVISIONS OF  
FLORIDA STATUTE 166.041  
PRIOR TO FINAL READING.

  
Jose Caragol  
Acting Council President

Attest:

Approved on this 24 day of Oct, 2012.

  
Marbelys Rubio, Acting City Clerk

  
Mayor Carlos Hernandez

Approved as to form and legal sufficiency:

  
William M. Grodnick, City Attorney

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Ordinance was adopted by a 5-0 vote with Council Members, Caragol, Casals-Munoz, Cue-Fuente, Hernandez and Lozano voting "Yes", Council Members Garcia-Martinez and Gonzalez absent.